

- 4.1 INTENT OF CONTRACT** - The intent of the contract is to provide for the construction and completion in detail of the work described. The Contractor shall furnish labor, materials, equipment, tools, transportation and supplies required to complete the work in accordance with the plans, specifications and terms of the contract.
- 4.2 ALTERATIONS OF CONTRACT** - The Department reserves the right to make such increases or decreases in quantities and such alterations in the work within the general scope of the contract, including alterations in the grade or alignment of the road or structure or both, as necessary or desirable. Such increases or decreases and alterations shall not invalidate the contract nor release the surety. The Contractor agrees to accept the work as altered, as if it had been a part of the original contract.

The Contractor shall not make a claim for loss of anticipated profits because of such alteration, or by reason of variation between the estimated quantities and the quantities of work completed.

Alterations of plans shall not involve or require work beyond the termini of the original proposed construction unless and until either a supplemental agreement acceptable to both parties has been executed, or a change order is issued to the effect that the work is to be performed as Extra Work in accordance with the provisions of Section 9.5.

Unless alterations in plans materially change the cost of performing a contract item or items, such item or items shall be performed as a part of the contract and will be paid for at the contract price or prices. When alterations in plans materially change the cost of performing a contract item or items, an allowance will be made on such basis as agreed to in advance of performance of the work involved.

Payment for work occasioned by alterations in plans will be made in accordance with the provisions set forth under Section 9.4. If the altered work is of sufficient magnitude that additional time to complete the project is warranted, time adjustments will be made in accordance with the provisions of Section 8.6.

Prices for items which are predetermined by the Department and set forth in the Price Schedule for Miscellaneous Items or the proposal form will not be subject to negotiation because of alterations in plans or quantity changes.

- 4.3 EXTRA WORK** - The Contractor shall perform authorized work, for which there is no price included in the contract, whenever necessary or desirable in order to complete the work as contemplated. Such work shall be performed in accordance with the specifications and as directed, and be paid for as provided under Section 9.5.
- 4.4 MAINTENANCE OF TRAFFIC** - Unless otherwise provided, the Contractor shall keep the road open to traffic in accordance with the required Traffic Control Provisions. The Contractor shall keep the portion of the project being used by public traffic in a condition that will adequately and safely accommodate traffic. Accommodation of traffic is not limited to but shall include providing flaggers in areas where the operation of construction equipment interferes with the movement of traffic and providing a roadway in a passable condition. The contractor shall also provide and maintain in a safe

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condition temporary approaches or crossings and intersection with trails, roads, streets, businesses, parking lots, residences, garages and farms. Snow removal will not be required of the Contractor.

Unless otherwise specified in the Contract, the Contractor's responsibility for project maintenance will be as follows:

When the work begins on the roadbed or pavement structure, the Contractor shall be responsible for maintaining the entire project. This responsibility will continue until the project is completed, except for those periods when the project is suspended. Maintenance during periods of project suspension will be in accordance with Section 4.4 B.

Mobilization of equipment, material stockpiling, clearing, topsoil stockpiling, fencing, and box culvert and bridge construction, including berm construction, will not constitute work on the roadbed or pavement structure.

The Contractor shall bear the expense of maintaining traffic over the project undergoing improvement, constructing and maintaining approaches, crossings, intersections, and other features as may be necessary, without direct compensation, except as provided below:

A. Traffic Diversions - Traffic diversions will be designated in the Contract. Right-of-way for traffic diversions will be furnished by the Department.

Construction, maintenance and removal of traffic diversions shall be as directed by the Engineer.

Materials, other than temporary drainage structures, required to construct and maintain traffic diversions will be paid for at their respective contract unit prices.

The cost of labor, equipment and incidentals required to satisfactorily maintain traffic diversions, and provide temporary drainage structures shall be incidental to the lump sum item "Maintenance of Traffic Diversions".

The cost of labor, equipment and incidentals necessary to satisfactorily remove traffic diversions and dispose of materials shall be incidental to the lump sum item "Remove Traffic Diversions".

B. Maintenance of Traffic During Suspension of Work:

1. Prior to written suspension due to unfavorable weather or conditions not the fault of the Contractor, the Contractor shall prepare the project as directed by the Engineer to provide for the accommodation of traffic during the anticipated period of suspension. During the suspension and until an order for resumption of construction operations is issued, the maintenance of the project for traffic, to the extent specified in writing by the Engineer, will be by and at the expense of the Department. When the order for the resumption of work is issued, the Contractor shall be responsible for the maintenance of traffic and shall replace or repair work or materials lost or damaged during the period of suspension, remove any work or materials for maintenance, and complete the

project in every respect as though its prosecution had been continuous and without interference. Additional work made necessary by such suspensions, for reasons beyond the control of the Contractor, will be paid for by the Department at contract prices or by extra work.

2. The Contractor shall be responsible for maintenance and replacement or repair of any work or material lost or damaged, without cost to the Department, during periods not covered by a written suspension order and when the work is suspended for the Contractor's failure to comply with the provisions of the Contract.

4.5 RIGHTS IN AND USE OF MATERIALS FOUND ON THE WORK - The Engineer may authorize the Contractor's use of materials found in the excavation that are suitable for completing bid items other than excavation. The Contractor will be paid both for the excavation of such materials at the corresponding contract unit price and for the pay item for which the excavated material is used. All of the excavation material removed shall be replaced with acceptable material at the Contractor's expense. Charge for the materials so used will not be made against the Contractor. The Contractor shall not excavate or remove any material from within the highway right-of-way which is not within the grading limits, without written authorization from the Engineer.

Unless otherwise provided, the material from an existing structure may be used temporarily by the Contractor in the erection of the new structure. Modification of such material will not be permitted, except with the approval of the Engineer.

4.6 FINAL CLEANING UP - Before final acceptance, the highway, and areas occupied by the Contractor in connection with the work shall be cleaned of rubbish, excess materials, temporary structures, and equipment; and the work left in an acceptable condition.

4.7 VALUE ENGINEERING INCENTIVE

- A. General:** Value engineering incentive applies to those cost reduction proposals initiated and developed by the Contractor for changing the drawings, designs, specifications or other requirements of the contract. It does not apply to such proposal unless it is identified by the Contractor at the time of submission to the Department as a value engineering incentive proposal.

The cost reduction proposals contemplated are those that:

1. Would require a change order to this contract.
 2. Would result in savings to the Department by providing less costly items or methods than those specified in the contract without impairing any of their essential functions and characteristics such as service life, reliability, economy of operation, ease of maintenance and necessary standardized features.
- B.** Cost reduction proposals shall be processed in the same manner as prescribed for any proposal which would require a change order. As a minimum the following information shall be submitted by the Contractor with each proposal:

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1. A statement that this proposal is submitted as a value engineering proposal.
 2. A description of the proposal.
 3. An itemization of the requirements of the contract which would require a change and a recommendation of how to make each change.
 4. An estimate of the reduction in performance costs that will result from adoption of the proposal.
 5. A prediction of any effects the proposed change would have on other costs to the Department.
 6. A time schedule, or date, within which the change order must be issued to obtain the maximum cost reduction during the remainder of the contract and the reason for this time schedule.
 7. The dates of any previous submission of the proposals, including contract numbers and the actions of the Department.
 8. A statement as to the effect the proposal would have on the time for completion of the project.
- C. The Department shall not be liable for delay in acting upon a proposal submitted. The decision of the Engineer as to the acceptance of any such proposal shall be final and shall not be subject to Section 5.17. The Engineer may accept, in whole or in part, cost reduction proposals submitted by issuing a change order.
- If a cost reduction proposal is accepted, an equitable price adjustment in the contract price and in other affected provisions of this contract will be made in accordance with this Specification or other applicable provisions in this contract. The equitable adjustment will be established by determining the effect of the proposal on the Contractor's cost of performance. When the cost of performance of this contract is decreased as the result of the change, the contract price will be reduced by the following amount: The total estimated decrease in the Contractor's cost of performance less fifty percent of the difference between the amount of such total estimated decrease and net increase to the Department which must reasonably be incurred as a result of application of the cost reduction proposal to this contract. If the change order results in an increase in the cost of performing the contract, this Specification will not apply and the increase will be determined in accordance with Section 4.
- D. The substitution of one bid item for another bid item resulting in a decrease in the contract amount will not be considered as a saving under Value Engineering Incentive. When change involves the increase of one bid item and the decrease of another bid item, the change order will be made in conformance with the applicable clauses of Section 4.

- E.** The Contractor may restrict the Department's right to use or disclose the information submitted with a value engineering proposal for other purposes. Such restrictions must be in writing and be submitted with the proposal.
- F.** If the proposal is accepted this restriction will be void and the Department may use, duplicate, or disclose in whole or in part data necessary to utilize such proposal.

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